



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**HOUSE JOINT RESOLUTION**

**CONSTITUTIONAL AMENDMENT**

**HC0045**

Introduced , by Rep. Elizabeth Coulson

**SYNOPSIS AS INTRODUCED:**

ILCON Art. VI, Sec. 7  
ILCON Art. VI, Sec. 8  
ILCON Art. VI, Sec. 12  
ILCON Art. VI, Sec. 12.1 new  
ILCON Art. VI, Sec. 12.2 new  
ILCON Art. VI, Sec. 12.3 new  
ILCON Art. VI, Sec. 12.4 new  
ILCON Art. VI, Sec. 12.5 new

Proposes to amend the Judiciary Article of the Illinois Constitution. Provides for the appointment of Supreme and Appellate Court Judges, and Circuit Judges in the First Judicial District and circuits adopting merit selection by referendum, by the Governor from nominees submitted by Judicial Nominating Commissions. Permits other Judicial Circuits to adopt by referendum a plan for merit selection of Circuit Judges. Provides that Judicial Review Commissions shall be established to decide whether appointed Judges shall be retained. Provides for Associate Judges to be phased out in the First Judicial District and in circuits adopting merit selection. Makes other changes. Effective upon approval by the electors.

LRB096 18414 RCE 33792 e

1 HOUSE JOINT RESOLUTION  
2 CONSTITUTIONAL AMENDMENT

3 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE  
4 NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE  
5 SENATE CONCURRING HEREIN, that there shall be submitted to the  
6 electors of the State for adoption or rejection at the general  
7 election next occurring at least 6 months after the adoption of  
8 this resolution a proposition to amend Article VI of the  
9 Illinois Constitution by changing Sections 7, 8, and 12 and  
10 adding Sections 12.1, 12.2, 12.3, 12.4, and 12.5 as follows:

11 ARTICLE VI  
12 THE JUDICIARY

13 (ILCON Art. VI, Sec. 7)

14 SECTION 7. JUDICIAL CIRCUITS

15 (a) The State shall be divided into Judicial Circuits  
16 consisting of one or more counties. The First Judicial District  
17 shall constitute a Judicial Circuit. The Judicial Circuits  
18 within the other Judicial Districts shall be as provided by  
19 law. Circuits composed of more than one county shall be compact  
20 and of contiguous counties. The General Assembly by law may  
21 provide for the division of a circuit for the purpose of  
22 selection of Circuit Judges and for the selection of Circuit  
23 Judges from the circuit at large.

24 (b) Each Judicial Circuit shall have one Circuit Court with

1 such number of Circuit Judges as provided by law. Unless  
2 otherwise provided by law, there shall be at least one Circuit  
3 Judge from each county. ~~In the First Judicial District, unless~~  
4 ~~otherwise provided by law, Cook County, Chicago, and the area~~  
5 ~~outside Chicago shall be separate units for the selection of~~  
6 ~~Circuit Judges, with at least twelve chosen at large from the~~  
7 ~~area outside Chicago and at least thirty six chosen at large~~  
8 ~~from Chicago.~~

9 (c) Circuit Judges in each circuit shall select by secret  
10 ballot a Chief Judge from their number to serve at their  
11 pleasure. Subject to the authority of the Supreme Court, the  
12 Chief Judge shall have general administrative authority over  
13 his court, including authority to provide for divisions,  
14 general or specialized, and for appropriate times and places of  
15 holding court.

16 (Source: Illinois Constitution.)

17 (ILCON Art. VI, Sec. 8)

18 SECTION 8. ASSOCIATE JUDGES

19 Each Circuit Court shall have such number of Associate  
20 Judges as provided by law. In the First Judicial District and  
21 in each Judicial Circuit that adopts Sections 12.1 and 12.3 by  
22 a local option referendum under Section 12.2, no new Associate  
23 Judges shall be appointed, but existing Associate Judges shall  
24 be eligible for reappointment by the Circuit Judges in each  
25 circuit as the Supreme Court shall provide by rule; otherwise

1 Associate Judges shall be appointed by the Circuit Judges in  
2 each circuit as the Supreme Court shall provide by rule. ~~In the~~  
3 ~~First Judicial District, unless otherwise provided by law, at~~  
4 ~~least one-fourth of the Associate Judges shall be appointed~~  
5 ~~from, and reside, outside Chicago.~~ The Supreme Court shall  
6 provide by rule for matters to be assigned to Associate Judges.  
7 (Source: Illinois Constitution.)

8 (ILCON Art. VI, Sec. 12)

9 SECTION 12. ELECTION OF CIRCUIT JUDGES ~~AND RETENTION~~

10 (a) In the First Judicial District and in Judicial Circuits  
11 that adopt Sections 12.1 and 12.3 by a local option referendum  
12 under Section 12.2, Circuit Judges shall be selected in the  
13 manner provided by those Sections, unless that manner of  
14 selection is terminated by referendum under Section 12.2;  
15 otherwise, Circuit Judges shall be elected in the manner  
16 provided by this Section.

17 (b) ~~Supreme, Appellate and~~ Circuit Judges shall be  
18 nominated at primary elections or by petition and ~~Judges~~  
19 shall be elected at general ~~or judicial~~ elections as provided  
20 ~~the General Assembly shall provide~~ by law. A person eligible  
21 for the office of Circuit Judge may cause his or her name to  
22 appear on the ballot as a candidate for Circuit Judge at ~~the~~  
23 primary and at ~~the~~ general ~~or judicial~~ elections by submitting  
24 petitions. The General Assembly shall prescribe by law the  
25 requirements for petitions. A Circuit Judge elected to office

1 under this subsection (b) may stand for retention for a full  
2 term under Section 12.4.

3 (c) ~~(b)~~ The office of a Circuit Judge shall be vacant upon  
4 the incumbent's ~~his~~ death, resignation, retirement, or  
5 removal, ~~or~~ upon the conclusion of a a ~~his~~ term without retention  
6 in office, or ~~or~~ whenever an additional ~~Appellate or~~ Circuit  
7 Judge is authorized by law, ~~the office shall be filled in the~~  
8 ~~manner provided for filling a vacancy in that office.~~

9 (d) ~~(e)~~ A vacancy occurring in the office of ~~Supreme,~~  
10 ~~Appellate or~~ Circuit Judge shall be filled as the General  
11 Assembly may provide by law or, ~~or~~ in the absence of a law,  
12 ~~vacancies may be filled~~ by appointment by the Supreme Court. A  
13 person appointed to fill a vacancy 60 or more days prior to the  
14 next primary election to nominate Circuit Judges shall serve  
15 until the first Monday in December following ~~vacancy is filled~~  
16 ~~for a term at the next~~ general ~~or judicial~~ election next  
17 following the appointment. A person appointed to fill a vacancy  
18 less than 60 days prior to the next primary election to  
19 nominate Circuit Judges shall serve until the the first Monday  
20 in December following ~~vacancy is filled at~~ the second general  
21 ~~or judicial~~ election following such appointment.

22 ~~(d) Not less than six months before the general election~~  
23 ~~preceding the expiration of his term of office, a Supreme,~~  
24 ~~Appellate or Circuit Judge who has been elected to that office~~  
25 ~~may file in the office of the Secretary of State a declaration~~  
26 ~~of candidacy to succeed himself. The Secretary of State, not~~

1 ~~less than 63 days before the election, shall certify the~~  
2 ~~Judge's candidacy to the proper election officials. The names~~  
3 ~~of Judges seeking retention shall be submitted to the electors,~~  
4 ~~separately and without party designation, on the sole question~~  
5 ~~whether each Judge shall be retained in office for another~~  
6 ~~term. The retention elections shall be conducted at general~~  
7 ~~elections in the appropriate Judicial District, for Supreme and~~  
8 ~~Appellate Judges, and in the circuit for Circuit Judges. The~~  
9 ~~affirmative vote of three fifths of the electors voting on the~~  
10 ~~question shall elect the Judge to the office for a term~~  
11 ~~commencing on the first Monday in December following his~~  
12 ~~election.~~

13 ~~(c) A law reducing the number of Appellate or Circuit~~  
14 ~~Judges shall be without prejudice to the right of the Judges~~  
15 ~~affected to seek retention in office. A reduction shall become~~  
16 ~~effective when a vacancy occurs in the affected unit.~~

17 (Source: Illinois Constitution.)

18 (ILCON Art. VI, Sec. 12.1 new)

19 SECTION 12.1. APPOINTMENT OF JUDGES

20 (a) This Section governs the selection of Supreme and  
21 Appellate Judges and the selection of Circuit Judges of the  
22 First Judicial District and Circuits that adopt this Section  
23 and Section 12.3 by a local option referendum under Section  
24 12.2. For purposes of this Section and Section 12.4, the term  
25 "Judge" includes all Supreme, Appellate, and Circuit Judges

1 selected in accordance with this Section except where a  
2 distinction is indicated.

3 (b) Judges shall be appointed by the Governor from nominees  
4 submitted by Judicial Nominating Commissions.

5 (c) The office of a Judge shall be vacant upon the  
6 incumbent's death, resignation, retirement, or removal, upon  
7 conclusion of a term without retention in office, or whenever  
8 an increase in the number of Judges is authorized.

9 (d) As soon as a vacancy occurs in the office of Judge or  
10 will occur within 6 months by a day certain, or upon receiving  
11 notice from the Governor that all 3 nominees on a list have  
12 been rejected, the administrative director of the Illinois  
13 courts shall promptly notify the chairperson of the appropriate  
14 Judicial Nominating Commission, who shall immediately convene  
15 the Commission.

16 (e) Within 42 days after receiving notice from the  
17 administrative director of the Illinois courts, the Commission  
18 shall submit to the Governor a list of 3 nominees in  
19 alphabetical order, who are qualified for review by the  
20 Commission. For the purposes of Sections 12.1 through 12.5,  
21 "qualified for review by the Commission" means persons who by  
22 their character, temperament, professional aptitude,  
23 experience, and commitment to equal justice under law are  
24 deemed by the Commission to be best qualified to fill the  
25 vacancy. The Commission may not include on a list a nominee who  
26 is on another list pending before the Governor to fill a

1 vacancy in the same judicial office or who was a nominee on a  
2 list rejected by the Governor to fill a vacancy in the same  
3 judicial office. No list shall have any effect after the  
4 required appointment is made from the list or all 3 nominees on  
5 the list are rejected by the Governor.

6 (f) Immediately upon receiving a list, the Governor shall  
7 make it public. Not less than 28 nor more than 56 days after  
8 receiving a list, the Governor shall appoint from the list a  
9 person to fill the vacancy or notify the administrative  
10 director of the Illinois courts that all 3 nominees on a list  
11 have been rejected.

12 (g) In the First Judicial District, half of the vacancies  
13 and new positions on the Circuit Court shall be filled by  
14 persons residing anywhere within the District and half shall be  
15 filled by persons residing within the divisions of the Circuit  
16 provided by law in accordance with subsection (a) of Section 7  
17 of Article VI, if any. The appointments from the divisions, if  
18 any, within the Circuit shall be allocated equally among the  
19 divisions.

20 (h) A person appointed to fill a vacancy under this Section  
21 shall serve an initial term ending on the first Monday in  
22 December following the next general election held after the  
23 completion of one year in office. At that general election the  
24 Judge may stand for retention in office for a full term under  
25 Section 12.4.

1 (ILCON Art. VI, Sec. 12.2 new)

2 SECTION 12.2. CIRCUIT LOCAL OPTION REFERENDA

3 (a) The electors of a Judicial Circuit may by a local  
4 option referendum adopt a proposition requiring Sections 12.1  
5 and 12.3 to govern the selection of Circuit Judges of that  
6 Circuit. The electors of a Circuit shall vote on the  
7 proposition at the next general election held not less than 3  
8 months following the filing of petitions with the Secretary of  
9 State, signed by at least 5% of the total number of electors  
10 who voted at the next preceding general election in that  
11 Circuit, asking that the proposition be submitted to  
12 referendum. If a majority of votes cast on the proposition are  
13 in the affirmative, Sections 12.1 and 12.3 shall thereafter  
14 govern the selection of Circuit Judges of the Circuit Court of  
15 that Circuit.

16 (b) After the eighth year following a local option  
17 referendum in which the electors of a circuit have adopted  
18 Sections 12.1 and 12.3 to govern the selection of Circuit  
19 Judges, the electors of the Circuit may terminate, by a local  
20 option referendum, their adoption of Sections 12.1 and 12.3.  
21 The referendum shall be subject to the same requirements and  
22 shall be conducted in the same manner as a referendum for  
23 adoption of Sections 12.1 and 12.3. If a majority of the votes  
24 cast on the proposition to terminate are in the affirmative,  
25 the selection of Circuit Judges and Associate Judges of that  
26 Circuit shall be governed by Sections 12 and 8, respectively,

1 unless Sections 12.1 and 12.3 are again adopted under this  
2 Section.

3 (c) To provide time for the establishment of District  
4 Judicial Nominating Commissions, vacancies occurring in the  
5 offices of Supreme and Appellate Judge and, in the First  
6 Judicial District, Circuit Judge on or before June 30th  
7 following the date this Amendment takes effect shall continue  
8 to be filled, using the procedures in Section 12 as it existed  
9 before the effective date of this Amendment, for a term ending  
10 the first Monday in December after the next general election.

11 (d) To provide time for the establishment of a Circuit  
12 Judicial Nominating Commission, vacancies occurring in the  
13 offices of Circuit Judge on or before March 31st following the  
14 adoption of Sections 12.1 and 12.3 in a local option referendum  
15 in a Judicial Circuit shall continue to be filled, using the  
16 procedures applicable before the referendum, for a term ending  
17 the first Monday in December after the next general election.

18 (ILCON Art. VI, Sec. 12.3 new)

19 SECTION 12.3. JUDICIAL NOMINATING COMMISSIONS

20 (a) There shall be a Judicial Nominating Commission in the  
21 First Judicial District for the nomination of Judges for the  
22 Supreme, Appellate, and Circuit Courts for that District, in  
23 each other Judicial District for the nomination of Judges for  
24 the Supreme and Appellate Courts for that District, and in each  
25 Judicial Circuit that, by a local option referendum, adopts

1 Section 12.1 and this Section for the nomination of Circuit  
2 Judges for that Circuit.

3 (b) Each Judicial Nominating Commission shall consist of 12  
4 members who are residents of the appropriate District or  
5 Circuit.

6 (c) The President and Minority Leader of the Senate and the  
7 Speaker and Minority Leader of the House of Representatives  
8 shall each appoint 3 members to each Judicial Nominating  
9 Commission. Each appointing authority shall appoint one lawyer  
10 and 2 non-lawyers. Each member shall serve for a term of 6  
11 years, except that the 3 initial members appointed by each  
12 appointing authority shall serve terms of 2, 4, and 6 years as  
13 designated by the appointing authority. Vacancies shall be  
14 filled for the unexpired term by the appointing authority who  
15 appointed the member whose office is then vacant. "Appointing  
16 authority" means the office, not the individual or political  
17 party affiliation of the individual who may hold that office  
18 from time to time.

19 (d) The chairperson of each Judicial Nominating Commission  
20 shall be selected by vote of all the members of the Commission.  
21 The term of a chairperson shall be for 3 years unless his or  
22 her remaining term as a member of the Commission expires  
23 sooner.

24 (e) A person who holds an office under the United States or  
25 this State or a unit of local government or school district and  
26 receives compensation for services rendered in that office or

1 who holds any office or official position in a political party  
2 is ineligible to serve on a Judicial Nominating Commission.  
3 Compensation for service in the State militia or the armed  
4 services of the United States for a period of time to be  
5 determined by the Supreme Court by rule shall not be considered  
6 a disqualification. No member of a Judicial Nominating  
7 Commission may be appointed to judicial office while serving on  
8 the Commission or for a period of 3 years after his or her  
9 service on a Commission has ended.

10 (f) A member who has served a full term of 6 years on a  
11 Judicial Nominating Commission may not serve on a Commission  
12 during the next 3 years. No person may serve on more than one  
13 Judicial Nominating Commission at the same time.

14 (g) A Commission may conduct investigations, meetings, and  
15 hearings, all of which may be secret, and employ staff members  
16 that may be necessary to perform the Commission's duties.  
17 Members of Commissions shall not receive any compensation for  
18 their services, but shall be entitled to reimbursement for  
19 necessary expenses. The General Assembly shall appropriate  
20 funds to the Supreme Court for reimbursement of those expenses  
21 and for all other administrative expenses of the Commissions.

22 (h) Nominations shall be submitted to the Governor only  
23 upon concurrence of not less than two-thirds of all members of  
24 the Commission.

25 (i) All lawyer and non-lawyer members of each Judicial  
26 Nominating Commission shall be subject to ethics and economic

1 disclosure requirements as provided by law.

2 (ILCON Art. VI, Sec. 12.4 new)

3 SECTION 12.4. RETENTION ELECTIONS

4 (a) Not less than 6 months before the general election next  
5 preceding the expiration of the term of office of (i) a  
6 Supreme, Appellate, or Circuit Judge who was elected to that  
7 office or (ii) a Supreme, Appellate, or Circuit Judge who was  
8 appointed to that office under Section 12.1, he or she may file  
9 in the office of the Secretary of State a declaration of  
10 candidacy for retention in that office for a full term. Not  
11 less than 63 days before the election, the Secretary of State  
12 shall certify the Judge's candidacy to the proper election  
13 officials. At the election the name of each Judge who has  
14 timely filed a declaration of candidacy for retention (except  
15 each Supreme, Appellate, and Circuit Judge who, under Section  
16 12.5, has been found qualified for review by the Commission and  
17 qualified to serve for the succeeding term) shall be submitted  
18 to the electors, separately and without party designation, on  
19 the sole question of retention in office for another term.  
20 Retention elections shall be conducted at general elections in  
21 the appropriate Judicial Districts and Circuits. The  
22 affirmative vote of three-fifths of the electors voting on the  
23 question of retention shall elect a Judge to that office for a  
24 full term commencing on the first Monday in December following  
25 the election.

1       (b) A Judge eligible to file a declaration of candidacy for  
2 retention who fails to do so within the time specified in  
3 subsection (a) or, having filed, fails to be retained shall  
4 vacate the office on the first Monday in December following the  
5 election, whether or not a successor has yet qualified. If an  
6 incumbent Judge, eligible to do so, does not timely file a  
7 declaration of candidacy for retention, the selection of a  
8 successor, if any, shall proceed immediately in the manner  
9 provided in Section 12 or 12.1, whichever applies, so that the  
10 successor may take office as soon as a vacancy occurs.

11       (c) An authorized reduction in the number of Judges shall  
12 be without prejudice to the right of Judges in office at the  
13 time to seek retention in accordance with this Section. The  
14 reduction shall become effective when a vacancy occurs in the  
15 affected unit.

16       (IILCON Art. VI, Sec. 12.5 new)

17       SECTION 12.5. JUDICIAL REVIEW COMMISSIONS

18       (a) In the First Judicial District, in each other Judicial  
19 District, and in each Judicial Circuit that, by local option  
20 referendum, has adopted Sections 12.1 and 12.3 for selection of  
21 Circuit Judges for that circuit, a Judicial Review Commission  
22 shall be created and empowered to determine qualification for  
23 retention of appointed Supreme, Appellate, and Circuit Judges.

24       (b) The members of a Judicial Review Commission shall be  
25 appointed in the manner specified in subsection (c) of Section

1 12.3 for appointment or election of members of a Judicial  
2 Nominating Commission.

3 (c) The terms of all members of a Judicial Review  
4 Commission shall begin 6 months before the general election in  
5 each year in which a general election is held and shall expire  
6 on the first Monday in November of the same year. Appointments  
7 to a Judicial Review Commission may not take place earlier than  
8 45 days before the term is to commence.

9 (d) A vacancy in the membership of a Judicial Review  
10 Commission shall be promptly filled as provided in subsection  
11 (c) of Section 12.3 with respect to vacancies on a Judicial  
12 Nominating Commission.

13 (e) Judicial Review Commissions shall be governed by  
14 subsections (b), (d), (e), (g), and (i) of Section 12.3 with  
15 respect to Judicial Nominating Commissions as well as by this  
16 Section.

17 (f) A person who has served on a Judicial Review Commission  
18 may not serve on a Judicial Review Commission until 8 years  
19 have elapsed since the date his or her service on a Judicial  
20 Review Commission ended. A person who has served on a Judicial  
21 Nominating Commission may not serve on a Judicial Review  
22 Commission until 8 years have elapsed since the date his or her  
23 service on a Judicial Nominating Commission ended. No person  
24 may serve on a Judicial Nominating Commission while serving on  
25 a Judicial Review Commission.

26 (g) In each Judicial District and in Circuits governed by

1 this Section, for each Supreme, Appellate, and Circuit Judge  
2 who has timely filed a declaration of candidacy for retention  
3 in office under Section 12.4, the Secretary of State shall,  
4 within 14 days after receipt of the declaration of candidacy,  
5 submit the Judge's name to the administrative director of the  
6 Illinois courts. Not more than 6 months nor less than 5 months  
7 before the general election next preceding the expiration of  
8 the term of office of the Judge, the administrative director of  
9 the Illinois courts shall notify the chairperson of the  
10 appropriate Judicial Review Commission of the Judge's  
11 candidacy. The chairperson shall then promptly convene the  
12 Commission.

13 (h) If, by concurrence of not less than two-thirds of its  
14 members, the Commission finds the candidate to be qualified for  
15 review by the Commission and qualified to serve another term,  
16 the candidate shall be retained in office for a full term  
17 commencing on the first Monday in December following the  
18 election. Not less than 84 days before the election, the  
19 Commission shall prepare and submit to each candidate its  
20 finding as to whether the Commission finds or fails to find  
21 that candidate qualified for review by the Commission and  
22 qualified to serve for another term. Not less than 77 days  
23 before the election the Commission shall submit to the  
24 Secretary of State a list stating by name:

25 (i) which candidates it has found qualified to serve  
26 another term;

